

# EXHIBIT N

1 the last several years of Madoff's operation.

2 THE COURT: All right. Let me rephrase what I  
3 said. During the period that they agree that the records  
4 accurately reflect the deposits and the withdrawals, does  
5 that agreement include any inter-account transfers during  
6 that period?

7 MS. CHAITMAN: I don't have every affidavit in my  
8 mind, but I do not believe that it does, because it's only  
9 the last two to four years, except Mr. Oasis went back to  
10 2000.

11 THE COURT: All right.

12 MS. CHAITMAN: But I don't believe that there are  
13 inter-account transfers within this period, and I don't  
14 think the bank subpoenas would reveal any evidence of an  
15 inter-account transfer.

16 THE COURT: That, I agree. I agree. Look, what I  
17 said repeatedly was that if they would agree that they got  
18 the withdrawals -- I was focusing on withdrawals, but I  
19 guess made the deposits that are indicated, certainly for  
20 the periods covered by the subpoena, and I understand that  
21 the subpoenas are now reaching -- going farther back, that  
22 they don't have to produce bank records just on that issue  
23 if they admit that they've got the deposits and the  
24 withdrawals. I realize that there are affirmative defenses  
25 and things like that.

1 MR. JACOBS: Right.

2 THE COURT: We'll address that in a minute. But  
3 it seems to me, for what the bank subpoenas were looking  
4 for, if they admit that the deposits and the withdrawals  
5 during the period they acknowledge are accurate, subject to  
6 possible exceptions for inter-account transfers, which I  
7 didn't expect them to be in a position to admit, then that  
8 satisfies that aspect of the bank subpoena.

9 MR. JACOBS: Well, Your Honor, from our  
10 perspective we don't -- legally our position is we don't  
11 need the bank records to prove any aspect of our case. The  
12 BLMIS records we have and that we produced to Ms. Chaitman  
13 in every single one of these cases together, as verified by  
14 the JP Morgan account records for BLMIS accounts, which show  
15 the account balance activity --

16 THE COURT: You're sure going through a lot of  
17 effort to get the records if you don't need them.

18 MR. JACOBS: Well, Your Honor, Ms. Chaitman is  
19 contesting the accuracy of our records. And Your Honor has  
20 not yet ruled on whether our proofs are sufficient. So we  
21 would be committing malpractice if we didn't aggressively  
22 pursue, given Ms. Chaitman's challenge to our records, the  
23 bank records from the defendant, which I might add, the  
24 defendant's had an obligation to preserve at a minimum, when  
25 they filed their claims back in 2009 and most of them did.

1           So I'm not saying we're going to get life of the  
2           account bank subpoena bank records for each defendant in  
3           every single case. Most of the banks are telling us they  
4           only have some limited subset of those documents for the  
5           life of the account. But I'm entitled to at least try.  
6           Because if I can't get them, I also have a potential  
7           spoliation argument that, in a worst-case scenario, I'm  
8           entitled to make, because that may entitle me to an adverse  
9           inference as to the defendant's challenge to my proofs.

10           THE COURT: I think we're talking about two  
11           different things.

12           MR. JACOBS: Okay.

13           THE COURT: Ms. Chaitman says, and this can be  
14           embodied in an order in each case, a brief order, which you  
15           can send on notice, or submit a consent order, that the  
16           client -- I'm sorry, the defendant acknowledges that the  
17           deposits listed in whatever column it was, and the  
18           withdrawals listed in whatever column it is, for the years  
19           that they're willing to admit, were actually made, in the  
20           case of deposits, or withdrawals were made and received for  
21           the years -- you know, you're not going to get an agreement  
22           about inter-account transfers, and there's nothing in the  
23           bank records.

24           MR. JACOBS: I'm not asking for one, Your Honor, I  
25           only based --